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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement*/ submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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1. The Organization for Defending Victims of Violence welcomes the democratic developments in the field of human rights in Serbia and Montenegro following the defeat of Milosovic in presidential elections.

2. Transferring of an indictee to the ICTY and cooperation with this court by Croatian government after the death of Franjo Tudjman shall be regarded as a positive progress in human rights in this country.

3. The Organization for Defending Victims of Violence calls on the international community to provide the facilities for trying the other war criminals before the International Criminal Court.

4. The problem of authoritarian governments in Central Asia and the ignorance of fundamental human rights in this region is one of the most important concerns of human rights defenders.

5. The battles between the troops of Uzbekistan government and the Islamic movement of Uzbekistan resulted in the displacement of the people in southeastern Uzbekistan. The campaign of Uzbekistan government against religious extremism has led even to the arrest of students who study in the independent Islamic institutions. Religious literature is one of the charges which can end into the arrest of the students who would like to study the course. The systematic torture against independent Islam in Uzbekistan *(1)* must be taken into consideration by the Commission.

6. The attempts of the Government of Azerbaijan to exclude opposition parties prior to November parliamentary elections and the same behaviour on behalf of Tajikistan government in order to exclude opposition parties from the vote in February 2000 elections *(2)* have caused concerns about the situation of human rights in these two countries.

7. The Organization for Defending Victims of Violence welcomes the democratic approaches taken by the new elected president of Turkey, Mr. Ahmed Necdet Sezer.

8. Despite the hopes arisen after the election of Mr. Sezer, three traditional restrictive lines of freedom of expression in Turkey remain and being implemented severely: role of ethnicity, religion and military in politics.

9. The Article 312 of the Turkish Criminal Code is the most notorious pretext which has been resorted to, to inhibit freedom of expression in Turkey; the following figures have been among the convicted persons under this article :

- Former Prime Minister, Necmettin Erbakan for a speech in March 1994, which was not advocative of hatred or violence.
- Recep Tayyip Erdogan, the former mayor of Istanbul for reading a poem which was inoffensive.
- Former education minister and leader of the Rebirth Party (YDP), Hasan Celal Guzel. He is being held at Ayas closed prison in Ankara.

10. The convictions under Article 312 have been regarded as the violation of the Article 10 of the European Convention on Human Rights in several judgements of European Court of Human Rights.

11. The attempts for reforming the Article 312 was confronted with the veto of the Turkish army.

12. The conclusions of the Human Rights Commission of Turkish Parliament in March 2000 which contains undeniable evidence of torture even against children proved that the Report and recommendations of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) *(3)* were totally neglected by the Turkish authorities.

13. The situation of human rights defenders, especially Mr Akin Birdal, the former president of the Turkish Human Rights Association (HRA) who was re-imprisoned in March 2000 on the ground of his speech four years earlier calling for peace and understanding, is one of the most important concerns of the Organization for Defending Victims of Violence.

14. After coming into power of Jörg Haider in Austria, it seems that a new tendency towards more restrictive measures inhibiting freedom of expression has appeared. Conviction of Professor Pelinka who accused Haider for his racial bias can be regarded as the sign of this dangerous appraoch.

15. According to Amnesty International, the high range of death in police custody in United Kingdom has raised serious concerns. *(4)*

16. Certain murders which occurred in Northern Ireland have been never considered adequately by the United Kingdom authorities. For example, the cases of Patrick Finucane, murdered Belfast lawyer, or Robert Hamill and also the attacks and operations of loyalist paramilitary group and the role of the agents of the United Kingdom have been neglected deliberately. *(5)*

17. Poor conditions in detention facilities which have even led to death of detainees in France is one of the most serious concerns regarding violation of human rights especially with respect to foreigners in this country.

18. The condemnation of France by the European Court of Human Rights for long detention of Mohammad Chalabi on 9 November 1999 would be regarded as a sign of failures in the issue of detention in this country.

19. The lack of protection to asylum seekers who have not been persecuted by a state or quasi-state actor is one of the concerns as regards the fundamental rights of these individuals in Germany. Restrictive definition for state or quasi-state actor in relevant regulations which exclude even the entities such as Taliban in Afghanistan is one of the reasons of discrepancies between German practices and the provisions of the Geneva Convention and precedent of European Court of Human Rights in this regard. *(6)*

20. Ill-treatment during the forced deportation of asylum seekers which has led in some cases to death is also one of the most serious concerns regarding the fundamental rights of asylum seekers in Germany.

21. Despite repeated declarations from the United Nations and international human rights organizations, Israel continues to use lethal force against unarmed civilians. The Organization for Defending Victims of Violence has stressed repeatedly over the period of the current Intifada that such acts constitute crimes of war. The killing of a resident of occupied territory in circumstances that are not life threatening to the army of occupation is willful killing, and is thus a grave breach of the Fourth Geneva Convention (art 146,147). Moreover, article 32 of the convention stipulates: "The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. The prohibition applies not only to murder, torture, but also to any other measures of brutality whether applied by civilian or military agents." In light of the enormous loss of life over the past few months, with most of those killed being unarmed Palestinian civilians, the Organization for Defending Victims of Violence calls on the High contracting parties to the Fourth Geneva Convention to abide by their article 1 obligation and ensure Israel's adherence to the Conventions provisions pertinent to territories under belligerent occupation. The Organization for Defending Victims of Violence calls on the Commission on Human Rights to condemn such cruelties and atrocities which have happened during the past months in the occupied territories by the Israeli army.

Notes

1/ Human Rights Watch World Report 2001 : Europe and Central Asia.

2/ Ibid.

3/ CPT / Inf (2000) 17 [en] - publication Date : 7 December 2000.

4/ See : Amnesty International, "United Kingdom: Accountability and Transparency Needed to Fight Deaths in Police Custody, press release, 17 May 2000.

5/ Based on the Human Rights Watch Report 2001: United Kingdom / Northern Ireland.

6/ Amnesty International German Section, "amnesty international zieht zum Tag des Fluechtlings Bilanz: Nach einem Jahr rot-gruenen kaum Fortschritte in der Fluechtlingspolitik, 30 September 1999.